

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,

v.

LUIS DAMIAN SIME-TINEO,

Defendant.

Criminal Action  
No. 11-0382 (WHW)

**MEMORANDUM OPINION**

**WALLS, Senior District Judge**

The Court is in receipt of Defendant Luis Sime-Tineo's Pro Se Motion for Resentencing. (Docket Entry 112).

1. On June 3, 2015, this Court revoked Defendant's term of supervised release and remanded him to the custody of the Bureau of Prisons for 18 months. The order further stated the sentence was to run concurrently with sentences imposed by the State of New York in case 02557N-2014, and by the Southern District of New York in No. 14-447. (Docket Entry 111).

2. On December 15, 2015, Defendant filed the instant motion for resentencing alleging the Bureau of Prisons improperly calculated his sentence by running his new sentence consecutively to his other sentences instead of concurrently. He therefore asserts the Bureau of Prisons is violating this Court's order. (Docket Entry 112).


3. Defendant asks this Court to resentence him or, alternatively, to order the Bureau of Prisons to recalculate his sentence.

4. Defendant challenges the execution of his federal sentence. His claim is therefore more properly brought in a petition for writ of habeas corpus under 28 U.S.C. § 2241. See *Cardona v. Bledsoe*, 681 F.3d 533, 536 (3d Cir. 2012) (holding allegations that Bureau of Prisons is not properly carrying out the directives of sentencing judgment are cognizable under § 2241). Such a petition must be filed in the district of Defendant's confinement, the Western District of Pennsylvania, and name his immediate custodian, the Warden of CI Moshannon Valley, as respondent. Defendant's motion is therefore not properly before this Court.

5. Defendant's motion is denied without prejudice to his ability to raise his claims in a § 2241 petition in the Western District of Pennsylvania.

6. An appropriate Order follows.

17 May 2016  
\_\_\_\_\_  
Date

  
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WILLIAM H. WALLS  
Senior U.S. District Judge